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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,664	01/30/2001	Claudio De Girolamo	Q62791	8160

7590 11/01/2005
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EXAMINER

PHAN, HANH

ART UNIT PAPER NUMBER

2638

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. X

09/771,664

Applicant(s)

DE GIROLAMO ET AL.

Examiner

Hanh Phan

Art Unit

2638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6 and 7 is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 08/15/2005.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

-In the abstract section, the form and legal phraseology often used in patent claims, such as "means" and "said" should be avoided. **For example, in the abstract, the phrases "said networks", "said network elements", "said method" and "said configuration data" should be avoided.**

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-In claim 5, the phrases "means for receiving/storing network architecture information", "means for receiving/storing criteria triggering the protection mechanism", "a mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements", and "means for receiving/storing a set of operator commands for network maintenance" are undefined. What the network architecture information is defined. What the criteria triggering the protection mechanism is defined. What a mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements are defined. What a set of operator commands for network maintenance is defined.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda et al (US Patent No. 6,643,041) in view of Ballintine et al (US Patent No. 6,246,667) and further in view of Takeguchi (US Patent No. 6,735,171).

Regarding claim 5, referring to Figures 1 and 5-11, Ikeda teaches a network element to be used in an optical fiber transport network having a ring topology and WDM technology based, said network comprising network elements joined by spans, optical path being installed between said network elements, said network element comprising:

means for receiving/storing network architecture information (Fig. 1, col. 8, lines 55-63);

means for receiving/storing configuration data of the network element (Fig. 1, col. 9, lines 27-67 and col. 10, lines 1-67);

means for receiving/storing criteria triggering the protection mechanism (Fig. 1, col. 10, lines 4-59);

means for receiving/storing a method for traffic re-routing (Fig. 1, col. 15, lines 1-67 and col. 16, lines 1-67); and

wherein said means for receiving/storing configuration data comprise means for receiving/storing a ring network map, a traffic map with path characteristics (col. 15, lines 1-67 and col. 16, lines 1-67).

Ikeda differs from claim 5 in that he fails to specifically teach a mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements, means for receiving/storing a set of operator commands for network maintenance and wherein said means for receiving/storing configuration data comprise means for bit rate of each path. However, Ballintine in US Patent No. 6,246,667 teaches a mechanism state machine and means for receiving/storing a

protocol for exchanging information between the network elements (Figs. 1, 2 and 5-15, col. 3, lines 12-67 and col. 7, lines 14-20) and Takeguchi in US Patent No. 6,735,171 teaches means for receiving/storing a set of operator commands for network maintenance and wherein said means for receiving/storing configuration data comprise means for bit rate of each path (Figs. 1 and 10, col. 1, lines 45-53, col. 2, lines 14-20 and col. 9, lines 34-43). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements, means for receiving/storing a set of operator commands for network maintenance and wherein said means for receiving/storing configuration data comprise means for bit rate of each path as taught by Ballintine and Takeguchi in the system of Ikeda. One of ordinary skill in the art would have been motivated to do this since Ballintine suggests in column 3, lines 12-67 and col. 7, lines 14-20 and Takeguchi suggests in column 1, lines 45-53 and col. 2, lines 14-20 and col. 9, lines 34-43 that using such the mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements, means for receiving/storing a set of operator commands for network maintenance and wherein said means for receiving/storing configuration data comprise means for bit rate of each path have advantage of allowing providing a failure restoration method and enhancing the reliability of communication.

Allowable Subject Matter

7. Claims 1-4, 6 and 7 are allowed.

Response to Arguments

8. Applicant's arguments filed 08/15/2005 have been fully considered but they are not persuasive.

The applicant's arguments to claim 5 are not persuasive. Applicant argues that the cited references (Ikeda, Ballintine and Takeguchi) fail to teach the limitations of "a **network element to be used in an optical fiber transport network having a ring topology and WDM technology based, said network comprising network elements joined by spans, optical path being installed between said network elements, said network element comprising: means for receiving/storing network architecture information; means for receiving/storing configuration data of the network element; means for receiving/storing criteria triggering the protection mechanism; a mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements; means for receiving/storing a method for traffic re-routing; means for receiving/storing a set of operator commands for network maintenance; and wherein said means for receiving/storing configuration data comprise means for receiving/storing a ring network map, a traffic map with path characteristics bit rate of each path**" of claim 5. The examiner respectfully disagrees. As indicated in Figures 1 and 5-11, Ikeda teaches a network element to be used in an optical fiber transport network having a ring

topology and WDM technology based, said network comprising network elements joined by spans, optical path being installed between said network elements, said network element comprising: means for receiving/storing network architecture information (Fig. 1, col. 8, lines 55-63); means for receiving/storing configuration data of the network element (Fig. 1, col. 9, lines 27-67 and col. 10, lines 1-67); means for receiving/storing criteria triggering the protection mechanism (Fig. 1, col. 10, lines 4-59); means for receiving/storing a method for traffic re-routing (Fig. 1, col. 15, lines 1-67 and col. 16, lines 1-67); and wherein said means for receiving/storing configuration data comprise means for receiving/storing a ring network map, a traffic map with path characteristics (col. 15, lines 1-67 and col. 16, lines 1-67). Ikeda fails to specifically teach a mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements, means for receiving/storing a set of operator commands for network maintenance and wherein said means for receiving/storing configuration data comprise means for bit rate of each path. However, Ballintine teaches a mechanism state machine and means for receiving/storing a protocol for exchanging information between the network elements (Figs. 1, 2 and 5-15, col. 3, lines 12-67 and col. 7, lines 14-20) and Takeguchi teaches means for receiving/storing a set of operator commands for network maintenance and wherein said means for receiving/storing configuration data comprise means for bit rate of each path (Figs. 1 and 10, col. 1, lines 45-53, col. 2, lines 14-20 and col. 9, lines 34-43).

Therefore, it is believed that the limitations of claim 5 are still met by the combination of Ikeda, Ballintine and Takeguchi and the rejection is still maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.


**HANH PHAN
PRIMARY EXAMINER**